

01 JUL 2005

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In re Application of : DECISION ON
Sung-Ho CHOI et al :
Application No.: 10/879,651 :
Filing Date: 12 June 2001 : PETITION UNDER
Attorney Docket No.: 678-692 :
For: METHOD OF ASSIGNING AN UPLINK :
RANDOM ACCESS CHANNEL IN A CDMA :
MOBILE COMMUNICATION SYSTEM : 37 CFR 1.181

This decision is in response to applicants' "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. 1.181" filed on 08 January 2004, requesting acceptance of a copy of the Declaration submitted as filed in the USPTO on 08 January 2002. Applicants have submitted, inter alia, a copy of the 08 January 2002 PTO stamped itemized postcard receipt.

BACKGROUND

On 12 June 2001, applicants filed a Utility Patent Application Transmittal Letter in the USPTO. Filed with the Transmittal Letter was, inter alia, the basic filing fee. No oath or declaration of the inventors accompanied the transmittal letter at such time.

On 08 September 2001, the USPTO mailed a "NOTIFICATION OF MISSING PARTS OF NONPROVISIONAL APPLICATION" which informed applicants, inter alia, that an "Oath or Declaration is missing. A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required."

On 10 November 2004, the USPTO mailed a "NOTICE OF ABANDONMENT UNDER 37 CFR 1.53(f) OR (g)," which stated that the above-identified application was abandoned since no reply was received.

In response to the "NOTICE OF ABANDONMENT" mailed on 17 December 2003, applicants submitted on 08 January 2004 the instant petition requesting withdrawal of the "Notice of Abandonment." In support of the request, applicants have provided a copy of the returned/stamped receipt card acknowledging a receipt date of 08 January 2002, within the time period of response.

DISCUSSION

Applicants' present petition accompanied by a copy of the following document, filed purportedly with the USPTO as indicated in the stamped postcard:

Executed Declaration and Power of Attorney

- (1) Petition for Extension of Time
- (2) Copy of Form PTO 1553

The postcard lists the above item and bears a USPTO date of stamp as 08 January 2002.

MPEP 503 provides:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicant's postcard is accepted as *prima facie* that a Declaration was timely deposited with the U.S. Patent and Trademark Office on 08 January 2002.

Accordingly, the date of receipt for the Declaration is 08 January 2002.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**.

The NOTICE OF ABANDONMENT, mailed 17 December 2003 has been **VACATED**.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for continue processing.



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